

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

4 Kasey Carroll,  
5 Plaintiff  
6 v.  
7 Agent of the State, et al.,  
8 Defendants

Case No. 2:24-cr-01348-CDS-EJY

**Order Adopting Report and  
Recommendations, Denying Carroll's  
28 U.S.C. § 2255 Motion, and Order  
Directing Plaintiff to Update His  
Current Address**

[ECF Nos. 1, 3, 10, 16]

This is a civil rights action initiated by pro se plaintiff Kasey Carroll. There are two report and recommendations (R&Rs), as well as Carroll's § 2255 motion, and his motion for leave to proceed *in forma pauperis* (IFP), pending before the court. ECF Nos. 1, 3, 10, 16. For the reasons set forth herein, I adopt the R&Rs in full and deny Carroll's motion for § 2255 relief.

14 | I. Relevant procedural history

15 As required by 28 U.S.C. § 1915(e)(2), Carroll's original complaint (ECF No. 1-1) was  
16 screened. Magistrate Judge Elayna J. Youshah issued an R&R (hereinafter, R&R-1) on July 26,  
17 2024, recommending that this action be dismissed without prejudice for several reasons. See  
18 R&R-1, ECF No. 3. Objections to R&R-1 were due August 9, 2024. See *id.* at 4 (citing Local Rule  
19 IB 3-2). No objections were filed.

On August 2, 2024, Carroll filed an amended complaint (First Am. Compl. (FAC), ECF No. 6), which Judge Youchah subsequently dismissed without prejudice as illegible. Order, ECF No. 7. In the order dismissing the FAC, Carroll was advised that he must file a proposed second amended complaint no later than September 4, 2024. *Id.* On August 22, 2024, Carroll filed a second amended complaint (SAC). ECF No. 12. On September 5, 2024, Judge Youchah issued a screening order regarding the SAC and an R&R (hereinafter, R&R-2) that I dismiss the excessive force claim asserted against Las Vegas Metropolitan Police Department officers

1 Alatorre and Corsaro. R&R-2, ECF No. 16. Judge Youchah set October 7, 2024, as the deadline  
 2 to file a third, and final opportunity for Carroll to amend his complaint. *Id.* at 4. Carroll also filed  
 3 a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Mot., ECF No.  
 4 10.

5 **II. Discussion**

6 **A. Carroll failed to file objections to the pending R&Rs, so they are adopted.**

7 As of the date of this order, Carroll has not objected to either R&R-1 or R&R-2, nor has  
 8 he requested more time to do so. “[N]o review is required of a magistrate judge’s report and  
 9 recommendation unless objections are filed.” *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.  
 10 Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d  
 11 1114, 1121 (9th Cir. 2003). As no objections have been filed, I adopt both R&R-1 and R&R-2 in  
 12 full.<sup>1</sup>

13 If Carroll elects to file a third amended complaint (TAC), he must file it no later than  
 14 October 7, 2024. The only defendants Carroll may name in the TAC are Alatorre and Corsaro.  
 15 Further, the TAC must include all facts Carroll wishes the Court to consider as asserted in  
 16 support of his excessive force claim when alleging a violation of his Fourth Amendment rights  
 17 because the Court cannot refer to his prior filings. Carroll is reminded that failure to timely  
 18 comply with Judge Youchah’s order will result in a recommendation to dismiss this action in its  
 19 entirely. *See* ECF No. 16 at 4.

20 **B. Carroll’s motion to vacate, set aside, or correct a sentence pursuant to 28 U.S.C.  
 21 § 2255 is denied because Carroll is not in federal custody.**

22 A federal prisoner who seeks to challenge the legality of confinement must generally  
 23 rely on a § 2255 motion to do so. *See* 28 U.S.C. § 2255; *Stephens v. Herrera*, 464 F.3d 895, 897 (9th  
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25 <sup>1</sup> The court notes that R&R-1 denied Carroll’s IFP application as moot as the action was being dismissed.  
 26 The court construes that denial as without prejudice so to the extent that Carroll files a third amended  
 complaint, the court will re-evaluate his application accordingly.

1 Cir. 2006) (“The general rule is that a motion under 28 U.S.C. § 2255 is the exclusive means by  
 2 which a **federal prisoner** may test the legality of his detention, and that restrictions on the  
 3 availability of a § 2255 motion cannot be avoided through a petition under 28 U.S.C. § 2241.”  
 4 (citation omitted)) (emphasis added). There is no evidence that Carroll is a federal prisoner,  
 5 much less that he was convicted of a federal offense. Rather, the record reflects that Carroll  
 6 seeks to challenge his conviction arising out of state court in Las Vegas, Nevada. See ECF No. 10  
 7 at 1. Accordingly, there is no basis to grant relief under § 2255 is Carroll’s motion to vacate, set  
 8 aside, correct his sentence is denied.

9       **C. Plaintiff must update his current mailing address.**

10      The docket reflects that at the time Carroll initiated this action, he was an inmate at the  
 11 Clark County Detention Center (CCDC). The court takes judicial notice of CCDC’s online  
 12 inmate search<sup>2</sup> that reveals there is no Kasey Carroll<sup>3</sup> in custody as of October 4, 2024. See  
 13 <https://redrock.clarkcountynv.gov/ccdcincustody/inCustodySearch.aspx> (last accessed October  
 14 4, 2024). Accordingly, pursuant to the Local Rules of this District, Carroll is ordered to file a  
 15 notice of change of address no later than October 21, 2024. See LR IA 3-1 (“An attorney or pro se  
 16 party must immediately file with the court written notification of any change of mailing address,  
 17 email address, telephone number, or facsimile number. The notification must include proof of  
 18 service on each opposing party or the party’s attorney.) Failure to comply with this order may  
 19 result in the dismissal of the action, entry of default judgment, or other sanctions as deemed  
 20 appropriate by the court. *Id.*

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23      <sup>2</sup> The Court may take judicial notice of publicly available information about jail inmates on government  
 24 websites. See, e.g., *United States v. Basher*, 629 F.3d 1161, 1165 n.2 (9th Cir. 2011) (taking judicial notice of  
 25 inmate information on the Federal Bureau of Prisons’ website); *Demis v. Snizek*, 558 F.3d 508, 513 (6th Cir.  
 26 2009) (same).

<sup>3</sup> In an abundance of caution, the court also searched under “Kasey Caroll,” “Kasey Carool,” and just  
 “Kasey” with no success.

1 III. Conclusion

2 IT IS HEREBY ORDERED the report and recommendations set forth in [ECF Nos. 3  
3 and 16] are adopted in full. As a result, Carroll's IFP application [ECF No. 1] is denied  
4 without prejudice, and the claims against Eighth Judicial District Court Judge Christy Craig,  
5 Clark County Public Defender Arlene Heshmati, and expert witnesses Mark Brattin and  
6 Melinda Stephens Ramirez are dismissed with prejudice.

7 IT IS FURTHER ORDERED that if Carroll elects to file a third amended complaint  
8 (TAC), he must file it no later than October 7, 2024. The only defendants Carroll may name in  
9 the TAC are Alatorre and Corsaro. Further, the TAC must include all facts Carroll wishes the  
10 Court to consider as asserted in support of his excessive force claim when alleging a violation of  
11 his Fourth Amendment rights because the Court cannot refer to his prior filings.

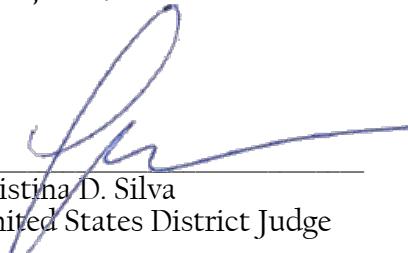
12 IT IS FURTHER ORDERED that Carroll's § 2255 motion [ECF No. 10] is DENIED.

13 IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

14 IT IS FURTHER ORDERED that the Clerk of Court enter a separate and final judgment  
15 denying Carroll's § 2255 motion. See *Kingsbury v. United States*, 900 F.3d 1147, 1150 (9th Cir. 2018).

16 IT IS FURTHER ORDERED that Carroll must file a change of address with this court  
17 pursuant to Local Rule IA 3-1 no later than October 21, 2024.

18 Dated: October 7, 2024

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Cristina D. Silva  
United States District Judge  


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